

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

CALVIN LYNDELL DIBRELL,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:22-CV-208-KAC-JEM
)	
OFFICER ROGER ALLEN REX, JR., in his)	
Individual and Official capacity,)	
)	
Defendant.)	
)	

ORDER TO SHOW CAUSE

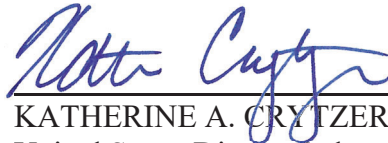
On February 16, 2024, the Court dismissed all but one (1) claim in Plaintiff's "First Amended Complaint" [Doc. 16] with prejudice under Federal Rule of Civil Procedure 12(b)(6) [See Doc. 40 at 14]. On April 15, Plaintiff filed a "Second Amended Complaint" [Doc. 43] purportedly "by [c]onsent of Defendant" [Doc. 43 at 1]. That filing purports to raise both claims not previous raised in the First Amended Complaint and an unbounded assertion of "any and all causes of action consistent with the facts and allegations" [See *id.*]. Thereafter, the Court set a hearing on the "Second Amended Complaint" [See Docs. 44, 46]. On May 2, in advance of the hearing, Defendant filed a "Memorandum and Brief" [Doc. 48] requesting that the Court strike Plaintiff's "Second Amended Complaint" [Doc. 43] because Defendant "did not agree to the filing . . . in the form it was filed" and, as such, Plaintiff failed to comply "with Rule 15 of the Federal Rules of Civil Procedure" [Doc. 48 at 1].

Federal Rule of Civil Procedure 15(a)(2) provides that "a party may amend its pleading," after it has already done so once as a matter of right, "**only** with the opposing party's written

consent or the court's leave." *See* Fed. R. Civ. 15(a)(2) (emphasis added). Here, Defendant maintains that he did not consent to the Plaintiff filing the "Second Amended Complaint" [Doc. 43] in its current form [*See* Doc. 48 at 1]. And the Court has not granted Plaintiff leave to amend his Amended Complaint. Therefore, it appears that Plaintiff has not met the requirements of with Rule 15(a)(2).

According, the Court **CANCELS** the hearing set for May 3, [*see* Docs. 44, 46], and **ORDERS** Plaintiff to show cause why the Court should not strike his "Second Amended Complaint" [Doc. 43] for failure to comply with Rule 15(a)(2). Plaintiff **MUST** respond to this Order **by May 9, 2024**. Failure to comply with this Order will result in the Court striking Plaintiff's "Second Amended Complaint" [Doc. 43]. *See Rodriguez v. Hirshberg Acceptance Corp.*, 62 F.4th 270, 277 (6th Cir. 2023) (citing *Wu v. T.W. Wang, Inc.*, 420 F.3d 641, 643 (6th Cir. 2005)); *see also* Fed. R. Civ. P 12(f).

SO ORDERED.


KATHERINE A. CRYTZER
United States District Judge